



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 24, 2005

Mr. M. Gustave Pick
Scott, Hulse, Marshall, Feuille, Finger & Thurmond, P.C.
P.O. Box 99123
El Paso, Texas 79999-9123

OR2005-01634

Dear Mr. Pick:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 219425.

The Ysleta Independent School District (the "school district"), which you represent, received a request for "all statements, bills or invoices submitted to the [school district] by [a named individual] from January 1, 2004 to present." You claim that portions of the requested information are excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

You argue that the social security number reflected in the submitted information is confidential under federal law. Social security numbers may be withheld in some circumstances under section 552.101 of the Government Code.² The 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), make confidential social security numbers and related records that are obtained or maintained by a state agency or

¹Although the school district also claims that the submitted information is excepted from disclosure under section 552.022 of the Government Code, this section is not an exception to disclosure but is instead an illustrative list of types of information that generally cannot be withheld unless confidential by law. See Gov't Code § 552.022.

² Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes.

political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* You state that the district is required to submit an "information return," on a Form 1099-MISC, to each person to whom the district paid more than \$600.00 in professional fees in a year. *See* 26 C.F.R. § 1.6041-1 (return of information as to payments of \$600 or more). As such, you state that the named individual was required to provide her social security number to the school district pursuant to section 301.6109-1(b)(1) of title 26 of the Code of Federal Regulations. *See* 26 C.F.R. § 301.6109-1(b)(1) (a person whose number must be included on a document filed by another person must give the taxpayer identifying number so required to the other person on request). Finally, you state that social security numbers can serve as taxpayer identifying numbers. *See* 26 C.F.R. § 301.6109-1(a)(1)(i). You indicate that the applicable sections of these federal provisions were enacted after October 1, 1990. Accordingly, we conclude that the submitted social security number, which we have marked, is confidential under section 405(c)(2)(C)(viii)(I) and must therefore be withheld pursuant to section 552.101 of the Government Code. The remaining submitted information must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

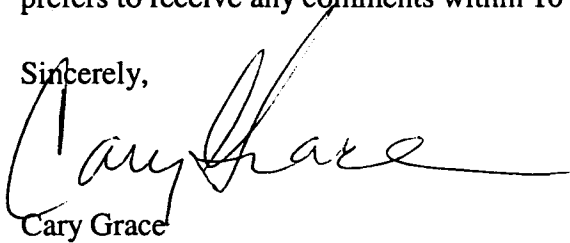
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Cary Grace", written over a horizontal line.

Cary Grace
Assistant Attorney General
Open Records Division

ECG/jev

Ref: ID# 219425

Enc. Submitted documents

c: Ms. Patricia Rodriguez
P.O. Box 220524
El Paso, Texas 79913
(w/o enclosures)